



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,367	11/03/2003	Katsumi Azusawa	03500.007695.4	1160
5514	7590	05/07/2007	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			TRAN, NHANT	
ART UNIT		PAPER NUMBER		
2622				
MAIL DATE		DELIVERY MODE		
05/07/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/698,367	AZUSAWA ET AL.
	Examiner Nhan T. Tran	Art Unit 2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 12-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 12-26 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 November 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. 07/715,457.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date: _____	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copies have been filed in parent Application No. 07/715457, filed on 6/14/1991.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 11/3/2003 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Preliminary Amendments

3. Preliminary amendments to specification and claims filed 11/3/2003 are acknowledged. Claims 1-11 have been canceled. Claims 12-26 are pending.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.

1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 12, 13, 23-26 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 4, 7-12 and 19-27 of U.S. Patent No. 6,014,169.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims 12, 13, 23-26 are encompassed by the Patent claims 4, 7-12 and 19-27. Specifically, the instant limitations of *“control means for disenabling said correcting means in the case that said image pickup means is not converting the optical image into the electrical image signal and not outputting the electrical image signal”* are encompassed by the Patent claim limitations of *“control means for discriminating whether said recording/reproducing means performs a reproduction operation of the recorded signal, and for controlling said compensating means according to the discrimination so as to automatically inhibit a compensation operation of said compensating means during the reproduction operation regardless of a detection output of said vibration detecting means, wherein said control means turns off power of said compensating means when said recording/reproducing means is in a reproduction mode.”* As seen from the Patent

claims, a capture mode is stopped or disabled by stop converting and outputting the electrical signal from the image pickup means, and a reproduction mode is enabled to reproduce the image signal already recorded in the recording medium. It is clear that the correction means is disabled (inhibited from operation) during the reproduction mode.

5. Claims 14-22 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 4-12 and 19-27 of U.S. Patent No. 6,014,169 in view of Sekine et al. (US 5,561,498).

The Patent claims 4-12 and 19-27 has met limitations of instant claims 14-22 except for an explicit disclosure of monitor means for displaying the electric image signal output from said image pickup as an electronic viewfinder. However, it is well recognized by Sekine that a monitor means is implemented in an image pickup apparatus for displaying real-time images output from an image sensor as an electronic viewfinder (EVF) so as to enable the user to view live images on the monitor for framing during an image capture mode (see Sekine, Fig. 1 and col. 5, lines 15-34).

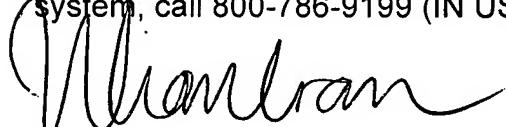
Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of the Patent claims and Sekine to arrive at the instant claims 14-22 so that the image pickup apparatus would be provided with an EVF for displaying live-view images to enable the user to view the images on the monitor for framing during an image capture mode.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhan T. Tran whose telephone number is (571) 272-7371. The examiner can normally be reached on Monday - Friday, 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


NHAN T. TRAN
Patent Examiner